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ATTORNEYS FOR DEFENDANTS PCI CONSTRUCTION, INC.
AND HAMID ADLPARVAR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO MAYA,
Plaintiff,

v.

PCI CONSTRUCTION, INC., HAMID
ADLPARVAR and DOES 1-10,
Defendants.

CASE NO. C07-06047 JW/RS

DEFENDANTS' CASE MANAGEMENT
STATEMENT

Date: April 21, 2008
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. James Ware
Case Filed: November 29, 2007
Trial Date: None Set

Despite repeated efforts by counsel for PCI Construction, Inc. and Hamid Adlparvar ("Defendants"), counsel for Francisco Maya (Plaintiff) has not participated in a substantive conference pursuant to Rule 26(f) of the Federal Rules of Civil Procedure. Pursuant to Civil Local Rule 16-9, Defendants submit the following Initial Case Management Conference Statement:

1. Jurisdiction and service:

The Court has jurisdiction over Plaintiff's claims based upon 28 U.S.C. § 1331. Jurisdiction is established on Federal Question (Fair Labor Standards Act). Venue is proper under 28 U.S.C. § 1391. Jurisdiction and venue are undisputed by Defendants.

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1 2. Facts:2 Plaintiff's Complaint

3 On November 29, 2007, Plaintiff filed the instant action against Defendants for: (1)
4 Violation of the California Labor Code § 510, (2) Violations of the Federal Fair Labor Standards
5 Act, (3) Violation of the California Business and Professions Code § 17200, and (4) Violation of
6 the California Labor Code § 226. The causes of action in Plaintiff's Complaint are based upon
7 Plaintiff's contention that Defendants failed to pay Plaintiff overtime wages due pursuant to state
8 and federal laws.

9 Defendants' Position

10 In response to Plaintiff's Complaint, Defendants filed an Answer denying all of
11 Plaintiff's substantive claims.

12 Plaintiff was employed by Defendant PCI Construction, Inc. ("PCI") for approximately 6
13 months to provide construction labor services. Defendant PCI contends it paid all amounts,
14 including overtime, for the hours worked and owes no other amounts to Plaintiff. Defendant
15 Hamid Adlparvar ("Adlparvar") further contends that Plaintiff's claims may not be asserted
16 against him as an individual and will seek to have those claims dismissed.

17 3. Legal Issues:

18 There is no dispute that Plaintiff was employed by Defendant PCI as a non-exempt
19 employee under both the California Labor Code and the Fair Labor Standards Act. Defendants
20 also believe there is no dispute that Plaintiff was paid overtime by Defendant PCI, it is only
21 disputed whether or not Plaintiff was paid all overtime that he earned. Defendants dispute that
22 Plaintiff's claims give rise to an action for individual liability against Defendant Adlparvar.

23 4. Motions:

24 No motions are currently pending in the instant action. Defendants anticipate filing a
25 12(b)(6) motion and/or a Motion for Summary Adjudication as to the claims asserted against
26 Defendant Adlparvar as an individual. Defendants also reserve the right to properly notice any
27 applicable motions, if and when necessary.

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1 5. Amendment of Pleadings:

2 Defendants do not anticipate amendments of the pleadings in this action, but reserve the
3 right to do so at a later time. Given Plaintiff's lack of participation in a substantive conference
4 pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, no proposed deadline for
5 amendment of the pleadings has been determined.

6 6. Evidence Preservation:

7 Defendants have taken all steps to preserve evidence relevant to the issues in this case,
8 including interdiction of any document-destruction program and any ongoing erasure of e-mails,
9 voice mails, and other electronically-recorded material.

10 7. Disclosures:

11 The parties have not yet exchanged initial disclosures. The parties have agreed to an
12 Early Settlement Conference before a Federal Magistrate Judge. Due to the relatively low dollar
13 amount involved in the instant action, Defendants have proposed delaying initial disclosures and
14 any discovery pending the outcome of an Early Settlement Conference.

15 8. Discovery:

16 No discovery has been taken to date in the instant action. Given Plaintiff's lack of
17 participation in a substantive conference pursuant to Rule 26(f) of the Federal Rules of Civil
18 Procedure, the scope of anticipated discovery has not yet been determined nor has a proposed
19 discovery plan been developed. Defendants anticipate that the parties will agree to discovery
20 consistent with the Federal Rules of Civil Procedure.

21 9. Class Action:

22 The instant case is not a class action.

23 10. Related Cases:

24 Defendants are unaware of any related cases or proceedings pending before another judge
25 of this Court, or before another court or administrative body.

26 11. Relief:

27 Plaintiff has only generally set forth the nature and type of damages sought. Plaintiff
28 seeks compensatory damages, liquidated damages, restitution, and statutory penalties according

1 to proof; pre-judgment interest; attorneys' fees; costs of suit; and such other and further relief as
2 the Court may deem appropriate.

3 Defendants pray that Plaintiff take nothing by reason of his Complaint and seek
4 attorneys' fees, costs of suit, and such other and further relief as the Court may deem
5 appropriate.

6 12. Settlement and ADR:

7 The parties have agreed to an Early Settlement Conference before a Magistrate Judge.
8 Defendants propose such a conference at the earliest convenience of the Court and the Magistrate
9 Judge. Defendants have filed a Notice of Need for ADR Phone Conference under Civil Local
10 Rule 16-8 and ADR Local Rule 3-5. Said conference is scheduled for April 17, 2008 at 10:30
11 a.m.

12 13. Consent to Magistrate Judge for All Purposes:

13 Defendants consent to the assignment of this case to a Magistrate Judge for all purposes.

14 14. Other References:

15 Defendants believe that this case is not suitable for reference to binding arbitration, a
16 special master, or the Judicial Panel on Multidistrict Litigation.

17 15. Narrowing of Issues:

18 As set for the above, Defendants believe that the claims against Defendant Adlparvar
19 should be dismissed. Given Plaintiff's lack of participation in a substantive conference pursuant
20 to Rule 26(f) of the Federal Rules of Civil Procedure, it is premature to ascertain whether or not
21 there are other issues that can be narrowed by agreement or by motion, suggestions to expedite
22 the presentation of evidence at trial (e.g. through summaries or stipulated facts), and any request
23 to bifurcate issues, claims, or defenses.

24 16. Expedited Schedule:

25 Defendants believe this is the type of case that can be handled on an expedited basis with
26 streamlined procedures.

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1 17. Scheduling:

2 Given Plaintiff's lack of participation in a substantive conference pursuant to Rule 26(f)
3 of the Federal Rules of Civil Procedure, proposed dates for designation of experts, discovery
4 cutoff, hearing of dispositive motions, pretrial conference and trial have not yet been determined.

5 18. Trial:

6 Plaintiff has demanded a jury trial. Defendants do not demand a jury trial. Defendants
7 expect the length of the trial to be approximately 2 days.

8 19. Disclosure of Non-party Interested Entities or Persons:

9 No Certification of Interested Entities or Persons has been filed in the instant action to
10 date. Defendants will file such a certification stating that no such interest is known to
11 Defendants other than that of the named parties to the action.

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15 DATED: APRIL 11, 2008

BERLINER COHEN

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17 BY: _____

18 ROBERTA S. HAYASHI
19 MARY KATHARINE WILSON
20 ATTORNEYS FOR DEFENDANTS PCI
21 CONSTRUCTION, INC. AND HAMID ADLPARVAR
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